Destructive Insects and P II 52(B)

1952. **File No.**

Legal Deptt

B **BRANCH**

K

Subject:— Rules under the Destructive Insects and Pests Act, 1914

P 2 / C

File No. Destructive Insects & P. II/52 (B)

Gen. 194 e.

61 C

LEGAL DEPARTMENT.

The Government of India in their letter on page 1 c/s. have pointed out to this Government that by amending rule 83 of the notification dated 20-7-1936 they sought to regulate the import of unmanufactured tobacco through the port of Bombay. Since the unmanufactured tobacco would now be arriving in the port of Bombay that Government advised to frame necessary rules under section 5 of the Destructive Insects and Pests Act, 1914. Section 5 of that Act empowers the State Government to make rules for the detention, inspection, disinfection or destruction of any insects or class of insects or of any article or class of articles in respect of which a notification has been issued under section 3. The Government of India have pointed out that a notification under section 3 has already been issued in respect of unmanufactured tobacco. The powers of the State Government are however, limited to four things, viz. detention, inspection, disinfection or destruction of any insects or class of insects. Since the power in respect of the above matters is conferred on the State Government it is obvious that the Central Government would not be competent to frame any rules in respect of those matters. The averment that the Government of India has made the Cotton Fumigation Rules is not correct.

Contd.

Under section 5 the power to frame rules has been vesting in the State Government since the said Act was enacted and accordingly the State Government have made the Fumigation of American Cotton Rules, 1925.

As pointed out above the powers of the State Government are confined to the 4 things stated above and the rules should be referable to those matters only. This Department cannot suggest what changes are required to be made in the rules. This is a matter entirely for the Department to consider. Attention of A.& F.D. is, however, invited to the Fumigation of American Cotton Rules, 1925 which may serve as a guide for drafting the proposed rules. However it is suggested that since the Government of India themselves have suggested that the rules should be framed in consultation with them it would be desirable to settle the draft of the proposed rules in consultation with them before they are referred to this Department for legal scrutiny.

15/7.

O.C.
Additional Deputy Secretary
to Government.

U.R. to A.& F.D.No. 157-L,dt. the 15th July 1952

28/6.